

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	Case No. 3:18-cr-00018
	:	
Plaintiff,	:	District Judge Walter H. Rice
vs.	:	Magistrate Judge Sharon L. Ovington
	:	
EDGAR GARCIA RODRIGUEZ,	:	
	:	
Defendant.	:	

REPORT AND RECOMMENDATION¹

This case came before the Court for a plea hearing on March 16, 2018. Assistant United States Attorneys Dominic S. Gerace, II (on behalf of the Government) and F. Arthur Mullins, Esq. (on behalf of Defendant) participated. Defendant was present with his counsel.

Prior to the hearing, the parties entered into a plea agreement, which agreement has been filed of record. (Doc. #12). Under the terms of the plea agreement, Defendant agreed to plead guilty to Count 1 of the Information filed in this case, which count charges Defendant as a previously removed alien found in the United States subsequent to a felony conviction in violation of 8 U.S.C. §§ 1326(a) and (b)(1).

During the plea hearing, the undersigned had the opportunity to address Defendant in open court and to inform Defendant of all rights and privileges as set forth in Fed. R. Crim. P. 11(b)(1). Further, the undersigned carefully inquired of Defendant regarding his/her understanding of the agreement, as well as his/her competence to

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendations.

understand the agreement. Having fully inquired, the undersigned Judicial Officer finds that Defendant's tendered plea of guilty to Count One of the Information was knowing, intelligent, and voluntary. Additionally, based upon the statement of facts, which were read into the record and affirmed by Defendant, the undersigned finds that there is a sufficient factual basis for finding that Defendant is in fact guilty as to Count I of the Information.

Based upon the foregoing, it is **RECOMMENDED** that the District Court accept Defendant's plea of guilty to Count I of the Information and find Defendant guilty as charged as a previously removed alien found in the United States subsequent to a felony conviction in violation of 8 U.S.C. §§ 1326(a) and (b)(1).

March 19, 2018

s/Sharon L. Ovington

Sharon L. Ovington
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Crim. P. 59(b)(2), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendations. Pursuant to Fed. R. Crim. P. 49(c) and Fed. R. Civ. P. 6(d), this period is extended to **SEVENTEEN** days if this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).